



THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Kim

Serial No.: 10/649,218

Group No.: 2817

Filed: August 26, 2003

Examiner: J. Chang

For: DATA DEMODULATION USING AN ASYNCHRONOUS CLOCK

APPELLANT'S APPEAL BRIEF UNDER 37 CFR §1.192

Mail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I. Real Party in Interest

The real parties and interests in this case are JAM Technologies, LLC, by assignment.

II. Related Appeals and Interferences

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

The present application was filed with 3 claims. Claims 1-3 are rejected, pending and under appeal. Claim 1 is the sole independent claim.

**IV. Status of Amendments Filed Subsequent
Final Rejection**

An after-final amendment has been herewith correcting the dependency of claim 3. The amendment to claim 3 has been reflected in the Appendix A, Claims on Appeal section of this Brief.

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V. Summary of Claimed Subject Matter

Independent claim 1 is directed to a method of demodulating a pulsewidth-modulated data stream using an asynchronous clock. The method comprises the steps of measuring a temporal aspect of the asynchronous clock; and locking onto the data stream in accordance with the measured periods. (Specification page 2, lines 1-5).

VI. Grounds of Objection/Rejection To Be Reviewed On Appeal

1. The rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,065,765 to Wagner.
2. The rejection of claims 1-3 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,760,412 to Barnes.

VII. Argument**A. Claims 1-3, wherein claims 2-3 stand or fall with claim 1**

Claim 1 was rejected under 35 U.S.C. §102(b) over Wagner ('785). The Examiner contends that Wagner discloses the step of measuring a temporal aspect of the asynchronous clock, citing column 1, lines 65-67, and locking onto the data stream in accordance with those measured periods, citing column 1, line 46. Appellant respectfully disagrees. Referring to the first passage in Wagner, this simply states that the invention provides an information storage device that employs a pair of asynchronous clocking systems, one for controlling the transmitted data and the other for controlling a recorder. Nowhere, can Appellant find in Wagner, the teaching of measuring a temporal aspect of the clock and locking onto the data stream in accordance with a measured period. Column 1, line 46 simply states that by means of an index signal, which is synchronized with the input data ..., which does not refer to an asynchronous clock. Rather, according to the Wagner disclosure, an index signal is synchronized with the data input which is derived from a rotating light source. Given that Wagner does not teach or suggest the measurement of a temporal aspect of an asynchronous clock, nor does Wagner teach or suggest the use of such a measurement to lock onto a data stream, anticipation is precluded.

Claim 1 also stands rejected under 35 U.S.C. §102(b) over Barnes ('412). Again, the Examiner claims that Barnes discloses the measurement of a temporal aspect of an asynchronous clock and uses

that to lock onto a data stream, but Appellant respectfully disagrees. With respect to the step of measuring a temporal aspect of an asynchronous clock, the Examiner simply states that 24 produces f_0 or $f_0/2$ of an asynchronous clock (10) having a frequency of f_0 . Be that as it may, this is not used to lock onto a data stream, at least as far as Appellant can surmise from the reference. With regard to this step, the Examiner references the same device, namely, data input 10 and states that the locking is done "in accordance with the measured periods (output of 24)." However, this appears to be insufficient disclosure, and insufficient explanation of that disclosure to rely upon anticipation.

Conclusion

In conclusion, for the arguments of record and the reasons set forth above, all pending claims of the subject application continue to be in condition for allowance and Appellant seeks the Board's concurrence at this time.

Date: June 21, 2006

Respectfully submitted,

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APPENDIX A

CLAIMS ON APPEAL

1. A method of demodulating a pulsewidth-modulated data stream using an asynchronous clock, comprising the steps of:
measuring a temporal aspect of the asynchronous clock; and
locking onto the data stream in accordance with the measured periods.
2. The method of claim 1, wherein the temporal aspect is a ratio of measured periods.
3. The method of claim 2, wherein the ratio is 2:1.

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None.

APPENDIX B

EVIDENCE

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APPENDIX C

RELATED PROCEEDINGS

None.